

**DECISION**



14175 *Bates*  
PLM1  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-197323

DATE: July 1, 1980

MATTER OF: Edward W. *[Claim for]* Krawiec - Relocation Expenses ]

**DIGEST:**

New appointee to manpower shortage category position originally authorized reimbursement for relocation expenses allowable only to transferred employees is not entitled to reimbursement of those expenses even though his decision to join agency was based on assurances of such reimbursement. Reimbursement of expenses of new appointees to manpower shortage category positions is limited to those enumerated in FTR paragraph 2-1.5f(3) and no authority exists for additional reimbursement. Government is not bound by incorrect statements of agents.

This is in response to a letter from Ms. Sandra L. *DLG01370* Schmick, an authorized certifying officer with the Mine Safety and Health Administration (MSHA), concerning the claim of Mr. Edward J. Krawiec for certain relocation expenses.

Mr. Krawiec, who had never before worked for the Federal Government, was appointed to an Electrical Engineer position with MSHA, and was assigned to the Bureau of Standards in Gaithersburg, Maryland. Mr. Krawiec reports that although one official at MSHA informed him that new appointees are not entitled to relocation expenses, the MSHA Personnel Office told him that as a new appointee to a manpower shortage position, he was entitled to reimbursement of relocation expenses, including transportation and storage of household goods, temporary housing for up to 30 days, a househunting trip, and real estate expenses.

Mr. Krawiec's appointment with MSHA was effective on August 13, 1978. He reported to the MSHA Personnel Office in Pittsburgh from his home in New York on August 14, 1978. At that time he took the oath of office and signed an agreement to remain in Government

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service for 12 months. Mr. Krawiec arrived at his official duty station at the National Bureau of Standards on August 21, 1978, without having received a Travel Authorization.

Mr. Krawiec reports that he called the MSHA Personnel Office and was told that there must have been a paper foul-up, but that he was entitled to reimbursement for temporary housing, real estate and moving expenses. In mid-September he received an advance of \$1,228.55 and a Travel Authorization dated August 11, 1978. Although this Travel Authorization referred to Mr. Krawiec's SF-50 which clearly showed that he was a new appointee, it stated that the purpose of the travel authorized was "To accept a permanent change in duty station from Brooklyn, New York, to Gaithersburg, Maryland." The Authorization allowed Mr. Krawiec per diem for himself and his family, mileage for travel by privately owned vehicle for himself and his family, movement of household goods, storage of household effects, real estate expenses, temporary quarters, and miscellaneous expenses. The estimated cost of the allowances amounted to \$17,768.05.

By a memo dated December 19, 1978, the Acting Personnel Officer of MSHA informed Mr. Krawiec that the Personnel Clerk who prepared his Travel Authorization did not know Mr. Krawiec was a new appointee and authorized allowances which only transferred employees may receive. The Acting Personnel Officer enclosed an amended Travel Authorization which provides only for per diem for Mr. Krawiec. Mr. Krawiec contends that he is entitled to all the allowances originally authorized since he based his decision to accept the position with MSHA on the assurances of MSHA officials that he would be reimbursed for the cost of his relocation.

Although it is generally true that new appointees are not entitled to reimbursement for relocation expenses, 5 U.S.C. 5723(a) (1976) grants agencies discretionary authority to pay the travel expenses of a new appointee to a position for which the Office of Personnel Management determines there is a manpower shortage. Under the same statute agencies may also reimburse the transportation expenses of the appointee's family and the cost of

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shipping his household goods. The regulations which implement this statute are found at paragraph 2-1.5f of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973).

The Office of Personnel Management has determined that Mr. Krawiec's position at MSHA is one for which a manpower shortage exists. Appendix A of Chapter 571 of the Federal Personnel Manual lists all professional positions in the engineering series nationwide as positions for which a manpower shortage exists.

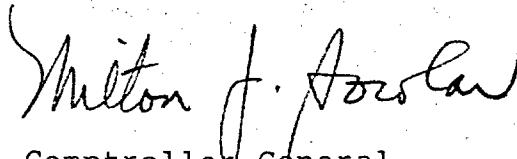
The certifying officer has informed us that it is MSHA policy to reimburse new appointees in manpower shortage categories the maximum allowable under the Federal Travel Regulations. In addition, the certifying officer reports that Mr. Krawiec submitted a claim for reimbursement of travel and per diem for himself and transportation of his household goods which has been paid. Under the Federal Travel Regulations Mr. Krawiec is also entitled to reimbursement of the transportation costs of his immediate family. In light of MSHA policy of reimbursing the maximum allowable under the FTR, Mr. Krawiec is entitled to that additional reimbursement.

He may not, however, receive reimbursement for any other expenses he may have incurred even though such reimbursement was authorized by his original Travel Authorization. There is no authority for an agency to make reimbursement to an employee beyond that authorized by law. In addition, while it is unfortunate that Mr. Krawiec was given erroneous advice with respect to his entitlement to reimbursement, all Government officers and employees are special agents of limited authority and all persons dealing with such agents and employees are charged with notice thereof and of the limitations upon the authority of the agents with which they deal. B-179635, March 20, 1974. It is well settled that in the absence of specific statutory authority, the Government is not liable for the negligent acts or omissions of its officers and employees; nor is it bound by or responsible for their unauthorized or incorrect statements. Robertson v. Sichel, 127 U.S. 507, 515 (1888); German Bank v. United States, 148 U.S. 573,

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579 (1893); 22 Comp. Gen. 221 (1942); 44 id. 337 (1964).

Accordingly, Mr. Krawiec may be reimbursed for the expenses authorized for new appointees to manpower shortage category positions, but there is no authority to reimburse him for any other expenses.

A handwritten signature in cursive script, reading "Milton J. Arosen".

Acting Comptroller General  
of the United States